

§ 3015.23

§ 3015.23 Microfilm.

Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

§ 3015.24 Access to records.

(a) *Records of recipients.* USDA and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the recipient which are pertinent in a specific USDA award in order to make audit, examination, excerpts, and transcripts.

(b) *Records of subrecipients.* USDA and the Comptroller General of the United States, and the recipient, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the subrecipient which are pertinent to a specific USDA grant or cooperative agreement, in order to make audit, examination, excerpts, and transcripts.

(c) *Expiration of right of access.* The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

§ 3015.25 Restrictions to public access.

Unless required by law, no awarding agency shall impose grant or subgrant conditions which limit public access to records covered by this subpart, except when the awarding agency determines that such records must be kept confidential and would have been excepted from disclosure pursuant to USDA's "Freedom of Information" regulations if the records had belonged to USDA (7 CFR 1.1-1.16).

Subpart E—Waiver of "Single" State Agency Requirements

§ 3015.30 Waiver of "single" State agency requirements.

Section 204 of the Intergovernmental Cooperation Act of 1968 authorizes Federal agencies to waive "single" State agency requirements on request of the Governor or other duly constituted State authorities.

(a) *Approval authority.* The awarding agency has approval authority for waiver requests, and shall handle them

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as quickly as feasible. Approval should be given whenever possible.

(b) *Refusal procedures.* When it is necessary to refuse a request for waiver of the "single" State agency requirements under section 204, the awarding agency shall, through O&F, advise OMB that the request cannot be granted. Such advice should indicate the reasons for the denial of the request. Notification, through O&F, to OMB shall occur prior to informing the State of the refusal.

Subpart F—Grant Related Income

§ 3015.40 Scope.

This subpart contains policies and requirements related to program income and interest and other investment income earned on advances of grant funds. Appendix A defines the term "program income." There are five categories of program income covered in this subpart. Each is treated in a separate section. The categories are:

- (a) General program income;
- (b) Proceeds from sale of real property and from sale of equipment and supplies acquired for use;
- (c) Royalties and other income earned from a copyrighted work;
- (d) Royalties or equivalent income earned from patents or inventions; and
- (e) Income after the period of grant or subgrant support not otherwise treated.

§ 3015.41 General program income.

(a) *Applicability.* This section applies to "general program income" as defined in Appendix A.

(b) *Use.* (1) General program income shall be retained by the recipient and used in accordance with one or a combination of the alternatives in paragraphs (c), (d), and (e) of this section, as follows: The alternative in paragraph (c) may always be used by recipients and must be used if neither of the other two alternatives is permitted by the provisions of the grant award. The alternatives in paragraph (d) or (e) of this section may be used only if expressly permitted by the provisions of

the grant award. In specifying alternatives that may be used, the provisions of the grant award may distinguish between income earned by the recipient and income earned by sub-recipients and between the sources, kinds, or amounts of income.

(2) The provisions of a subgrant award may restrict the use of general program income earned by the sub-recipient to only one or some of the alternatives permitted by the provisions of the grant, but the alternative in paragraph (c) of this section shall always be permitted.

(c) *Deduction alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program. If there is a cost-sharing or matching requirement, costs supported by the income may not count toward satisfying that requirement. Therefore, the maximum percentage of Federal cost-sharing is applied to the net amount determined by deducting the income from total allowable costs and third party in-kind contributions. The income shall be used for current costs unless the awarding agency authorizes the income to be used in a later period.

(2) To illustrate this alternative, assume a project in which the recipient incurs \$100,000 of allowable costs and receives no third party in-kind contributions. If the recipient earns \$10,000 in general program income and this alternative applies, that \$10,000 must be deducted from the \$100,000 before applying the maximum percentage of Federal cost-sharing. If that percentage is 90 percent, the most that could be paid to the recipient would therefore be \$81,000 (90 percent times \$90,000).

(d) *Cost-sharing or matching alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program but, in this case, the costs supported by the income may count toward satisfying a cost-sharing or matching requirement. Therefore, the maximum percentage of Federal cost-sharing is applied to total allowable costs and third party in-kind contributions. The income shall be used for current costs unless the awarding agency authorizes its use in a later period.

(2) To illustrate this alternative, assume the same situation as in para-

graph (c)(2) of this section. Under this alternative, the 90 percent maximum percentage of Federal cost-sharing would be applied to the full \$100,000, and \$90,000 could therefore be paid to the recipient.

(e) *Additional costs alternative.* Under this alternative, the income is used for costs which are in addition to the allowable costs of the project or program but which nevertheless further the objectives of the Federal statute under which the grant was made. Provided that the costs supported by the income further the broad objectives of that statute, they need not be of a kind that would be permissible as charges to Federal funds. Examples of purposes for which the income may be used are:

- (1) Expanding the project or program.
- (2) Continuing the project or program after grant or subgrant support ends.
- (3) Supporting other projects or programs that further the broad objectives of the statute.
- (4) Obtaining equipment or other assets needed for the project or program or for other activities that further the statute's objectives.

§ 3015.42 Proceeds from sale of real property and from sale of equipment and supplies acquired for use.

The following kinds of program income shall be governed by Subpart R of this part:

- (a) Proceeds from the sale of real property purchased or constructed under a grant or subgrant.
- (b) Proceeds from the sale of equipment and supplies created or purchased under a grant or subgrant and intended primarily for use in the grant or subgrant-supported project or program rather than for sale or rental.

§ 3015.43 Royalties and other income earned from a copyrighted work.

(a) This section applies to royalties, license fees, and other income earned by a recipient from a copyrighted work developed under the grant or subgrant. Income of that kind is covered by this section whether a third party or the recipient acts as the publisher, seller, exhibitor, or performer of the copyrighted work. In some cases the recipient incurs costs to earn the income but does not charge these costs to USDA